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16 UNITED STATES DISTRICT COURT  
17 SOUTHERN DISTRICT OF CALIFORNIA

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19 JAMES CLARK, ANTHONY EDWARDS,  
REANNA LEVY, JOSUE LOPEZ,  
20 CHRISTOPHER NORWOOD, JESSE  
OLIVARES, GUSTAVO SEPULVEDA,  
21 MICHAEL TAYLOR, and LAURA  
ZOERNER, on behalf of themselves and all  
22 others similarly situated,

23 Plaintiffs,

24 v.

24 SAN DIEGO COUNTY SHERIFF'S  
DEPARTMENT, COUNTY OF SAN  
25 DIEGO, SAN DIEGO COUNTY  
PROBATION DEPARTMENT, and DOES  
26 1 to 20, inclusive,  
27 Defendants.

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Case No. 3:20-cv-00406-AJB-DDL

**EXPERT REPORT OF  
CHRISTINE SCOTT-  
HAYWARD, PH.D.**

Judge: Hon. Anthony J. Battaglia  
Magistrate: Hon. David D. Leshner

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1 I, Christine Scott-Hayward, Ph.D., declare:

2 1. I am Christine Scott-Hayward. A true and correct copy of my  
3 *curriculum vitae* is attached hereto as **Exhibit A**. My background and experiences  
4 relevant to my expert testimony in this proceeding are set forth below.

5 EDUCATION AND QUALIFICATIONS

6 2. I am a tenured Professor and the Director of the School of Criminology,  
7 Criminal Justice, and Emergency Management at California State University, Long  
8 Beach. Prior to joining CSULB, from 2011-2013, I was an Associate-in-Law and  
9 Post-Doctoral Research Fellow at Columbia Law School. Previously, from 2010-  
10 2011, I clerked for the Honorable James Orenstein, Magistrate Judge, in the Eastern  
11 District of New York. From 2006-2009, I worked as a Research Analyst and  
12 Research Associate at the Vera Institute of Justice in New York.

13 3. I earned my B.C.L. (International), with First Class Honors from  
14 University College Dublin School of Law, spending a year studying law at DePaul  
15 University School of Law in Chicago, Illinois. I earned my M.A. in Social Sciences  
16 in 2000 from the University of Chicago. My thesis was entitled “The Civilizing  
17 Process: The Origins of Anti-Death Penalty Discourse in Europe and Britain 1764-  
18 1868.”

19 4. I earned my Ph.D. in Law and Society from New York University’s  
20 Institute for Law and Society. My dissertation was entitled “Parole, Desistance, and  
21 Rehabilitation: The Effect of Parole Supervision on Reentry and Reintegration.” I  
22 have been a member of the New York bar since 2006.

23 5. I have almost 20 years of experience conducting social science research  
24 in the fields of criminal justice and criminal procedure and have published more  
25 than 30 books, articles, book chapters, commentaries and reports. My recent  
26 research has focused on pretrial justice and sentencing and since 2018, I have more  
27 than ten publications on these topics.

28

1 **I. PRIOR EXPERT REPORTS**

2 6. I previously prepared an expert report and testified in the case of  
3 *Urquidi v. City of Los Angeles*, Case No. 22-STC-04044 (Los Angeles County  
4 Superior Court) on behalf of plaintiffs challenging the use of pre-arraignment  
5 money bail schedules in the City of Los Angeles. In that case, I was accepted as an  
6 expert on pretrial justice and testified on the adverse effects of pretrial detention and  
7 money bail on criminal defendants, their families, and communities.

8 **II. COMPENSATION**

9 7. I am being compensated at a rate of \$175 an hour for report preparation  
10 and \$350 an hour for testimony in this case.

11 **III. MATERIALS REVIEWED**

12 8. Attached as **Exhibit B** is an index of the documents I have reviewed.  
13 This includes documents produced by Defendants in this litigation, as well as other  
14 discovery, including deposition transcripts. I have also reviewed some publicly  
15 available information about Defendants and the programs I discuss herein. The  
16 information and opinions contained in this report are based on evidence,  
17 documentation, and/or observations available to me. I reserve the right to modify or  
18 expand these opinions should additional information become available to me.

19 **IV. OPINIONS**

20 **A. Summary of Opinions**

21 9. My opinions are as follows:

- 22 • First, jails, particularly jails in San Diego County, are dangerous  
23 places where medical and mental health needs are high, treatment is  
lacking, and death rates are high.
- 24 • Second, pretrial jail detention negatively impacts individuals' case  
outcomes.
- 25 • Third, jail detention negatively impacts the financial wellbeing of  
26 detained individuals and their families.
- 27 • Fourth, the negative consequences of pretrial detention and jail  
28 incarceration generally, disproportionately impact of people of  
color.

- Fifth, San Diego County’s pretrial jail population could be reduced in several ways without negatively impacting public safety or reducing court appearance rates.
- Sixth, the jail population in San Diego County could and should be reduced by expanding the use of alternative to incarceration programs.

**B. Opinion One: Jails, particularly jails in San Diego County, are dangerous places where medical and mental health needs are high, treatment is lacking, and death rates are high.**

10. Individuals with health issues, particularly behavioral health issues are disproportionately represented in jails in the United States and in San Diego County. National data from the Bureau of Justice Statistics show that people in jail have serious physical and mental health issues as well as high rates of substance dependence. Moreover, jail incarceration is associated with negative behavioral health outcomes after release. In addition, detained individuals can be victims of correctional violence and have higher death rates than the national average. As discussed below, the death rate in San Diego County’s jails is notably high.

11. **Mental Illness:** A survey conducted in 2011 and 2012 by the Bureau of Justice Statistics (BJS), a division of the United States Department of Justice, found that about one in four people detained in jail reported having had in the past 30 days “experiences that met the threshold for serious psychological distress.”<sup>1</sup> This same survey shows that many incarcerated people suffered from multiple disorders, with 28.5% suffering at least two mental health conditions.<sup>2</sup> Further, 44% of respondents to that same survey reported that they had been previously diagnosed by a mental health professional with a major depressive disorder. These rates are

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<sup>1</sup> JENNIFER BRONSON & MARCUS BERZOFKY, U.S. DEP’T OF JUSTICE, BUREAU OF JUST. STATISTICS, INDICATORS OF MENTAL HEALTH PROBLEMS REPORTED BY PRISONERS AND JAIL INMATES, 2011–12 (NCJ Rep. No. 250612, June 2017), <https://bjs.ojp.gov/content/pub/pdf/imhprpji1112.pdf>.

<sup>2</sup> Brandon K. Applegate, Nicola Pasquire, and Heather M. Ouellette, *The Prevalence of Physical and Mental Health Multimorbidity Among People Held in U.S. Jails*, 30(1) J. CORRECTIONAL HEALTH CARE (2024).

1 higher than the rates for those in prison and the general population.<sup>3</sup> Similar rates of  
2 mental illness are found among people arrested in San Diego County. For example,  
3 a 2022 report by SANDAG based on interviews with a random sample of people  
4 booked into three San Diego County jail facilities found that 40% of the sample  
5 reported a history of a mental health or psychiatric disorder.<sup>4</sup>

6 12. Despite these high rates of mental illness in jails, most detained  
7 individuals do not receive adequate care. In 2015, the Vera Institute of Justice  
8 reported that “83% of jail inmates with mental illness did not receive mental health  
9 care after admission.”<sup>5</sup> In San Diego County, although some incarcerated people do  
10 receive mental health care, a number of reports have highlighted problems with the  
11 county’s provision of mental health services. For example, a 2017 report by the  
12 National Commission on Correctional Healthcare on the San Diego County jail  
13 system noted problems with suicide prevention at all the facilities it visited, as well  
14 as insufficient staffing to meet the needs of mentally ill people at 3 of the 4 facilities  
15 it reviewed.<sup>6</sup> Similarly, a 2018 report by Disability Rights California highlighted  
16 the over-incarceration of people with mental health needs, deficiencies in suicide  
17 prevention, and a failure to provide adequate mental health treatment.<sup>7</sup> Another  
18 2018 report from expert Lindsay Hayes identified deficiencies in the Sheriff’s  
19

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20  
21 <sup>3</sup> Meghan A. Novisky & Daniel C. Semenza, *Jails and Health in* CHRISTINE S.  
22 SCOTT-HAYWARD, JENNIFER E. COPP, STEPHEN DEMUTH (EDS.), HANDBOOK ON  
23 PRETRIAL JUSTICE (2021).

24 <sup>4</sup> SANDAG, 2022 Adult Arrestee Drug Use in the San Diego Region (June 2023)  
25 (DUNSMORE100934).

26 <sup>5</sup> RAM SUBRAMANIAN, RUTH DELANEY, STEPHEN ROBERTS, NANCY FISHMAN, &  
27 PEGGY MCGARRY, VERA INSTITUTE OF JUSTICE, INCARCERATION’S FRONT DOOR:  
28 THE MISUSE OF JAIL IN AMERICA (2015),  
[http://www.safetyandjusticechallenge.org/wp-  
content/uploads/2015/01/incarcerations-front-door-report.pdf](http://www.safetyandjusticechallenge.org/wp-content/uploads/2015/01/incarcerations-front-door-report.pdf).

<sup>6</sup> NCCHC RESOURCES INC., TECHNICAL ASSISTANCE REPORT: SAN DIEGO COUNTY  
SHERIFF’S DEPARTMENT (JAN. 2017) (DUNSMORE0115212).

<sup>7</sup> DISABILITY RIGHTS CALIFORNIA, SUICIDES IN SAN DIEGO COUNTY JAIL: A SYSTEM  
FAILING PEOPLE WITH MENTAL ILLNESS (APRIL. 2018) (DUNSMORE0125014).

1 Department's suicide prevention program.<sup>8</sup> Several years later, a 2022 report by the  
2 California State Auditor found that many problems with mental health care still  
3 existed, including insufficient health evaluations conducted at intake and  
4 inconsistent follow-up care provided.<sup>9</sup>

5 13. Moreover, incarcerated people with mental illness are generally at  
6 higher risk of violent victimization by correctional staff, as a 2023 study found that  
7 they are 2.2 times more likely to be victimized than incarcerated people without  
8 mental illness.<sup>10</sup>

9 14. The relationship between incarceration and mental illness is complex,  
10 in part because of the overlap between childhood determinants of criminal behavior  
11 and of psychiatric outcomes.<sup>11</sup> However, research suggests that all forms of  
12 incarceration have a negative impact on behavioral health outcomes. For example, a  
13 study by Schnittker and colleagues that examined data from a national survey  
14 conducted between 2001 and 2003 found that incarceration is related to subsequent  
15 mood disorders, including major depressive disorder and bipolar disorder.<sup>12</sup>  
16 Similarly, Porter and Novisky analyzed data from the National Longitudinal Study  
17 of Adolescent Health collected between 1993 and 2008 and found that incarceration  
18 was associated with higher rates of depressive symptoms.<sup>13</sup> In addition, relative to  
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20 <sup>8</sup> See LINDSAY M. HAYES, REPORT ON SUICIDE PREVENTION PRACTICES WITHIN THE  
SAN DIEGO COUNTY JAIL SYSTEM (JUNE 2018) (DUNSMORE0117162).

21 <sup>9</sup> CALIFORNIA STATE AUDITOR REPORT 2021-109, SAN DIEGO COUNTY SHERIFF'S  
22 DEPARTMENT: IT HAS FAILED TO ADEQUATELY PREVENT AND RESPOND TO THE  
DEATHS OF INDIVIDUALS IN ITS CUSTODY (Feb. 2022) (SD744691).

23 <sup>10</sup> Daniel C. Semenza, Jessica M. Grosholz, Deena A. Isom, & Meghan A. Novisky,  
24 *Mental Illness and Racial Disparities in Correctional Staff-Involved Violence: An  
Analysis of Jails in the United States*, 38(3-4) J. OF INTERPERSONAL VIOLENCE  
(2023).

25 <sup>11</sup> Jason Schnittker, Michael Massoglia, and Christopher Uggen, *Out and Down:  
26 Incarceration and Psychiatric Disorders*, 53(4) J. HEALTH & SOC. BEHAVIOR 448  
(2012).

27 <sup>12</sup> *Id.*

28 <sup>13</sup> Lauren C. Porter & Meghan A. Novisky, *Pathways to Depressive Symptoms  
among Former Inmates*, 34(5) JUST. QUARTERLY 847 (2016).

1 prison incarceration, jail incarceration appears to be more harmful to individuals. A  
2 2017 study by Yi and colleagues analyzed data from the Fragile Families and Child  
3 Wellbeing study, which is a longitudinal study following the parents of children  
4 born between 1998 and 2000. They found that people held in jails report higher  
5 rates of depression after release than those released from prison.<sup>14</sup>

6       **15. Physical Health:** Detained individuals also suffer from physical health  
7 problems, including chronic health conditions, at high rates. The 2011-12 BJS  
8 survey discussed earlier showed that approximately 45% of detained individuals  
9 reported a history of chronic illness, most commonly hypertension or asthma.<sup>15</sup> As  
10 with mental illness, many detained people have suffered from multiple health issues.  
11 A recent study using the same 2011-12 data found that 55% of respondents had  
12 suffered from at least two physical health conditions.<sup>16</sup>

13       **16.** Moreover, multimorbidity is common, with high numbers of detained  
14 individuals suffering both physical and mental health conditions. Applegate and  
15 colleagues found that more than half of the 2011-12 surveyed sample had at least  
16 one mental health condition *and* one physical health condition.<sup>17</sup> Notably, women  
17 suffered multiple conditions at higher rates than men. Again, a number of reports  
18 have pointed out inadequacies in the provision of medical care in San Diego  
19 County's jails.<sup>18</sup>

20       **17. Substance Use:** Substance use and services for those with substance  
21 use needs is also a major problem in jails. A 2018 report by the National Sheriff's

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22  
23 <sup>14</sup> Youngmin Yi, Kristin Turney, & Christopher P. Wildeman, *Mental Health  
Among Jail and Prison Inmates*, 11 AM. J. OF MEN'S HEALTH 900 (2017).

24 <sup>15</sup> LAURA M. MARUSCHAK, MARCUS BERZOFKY, & JENNIFER UNANGST, U.S. DEP'T  
25 OF JUSTICE, BUREAU OF JUST., MEDICAL PROBLEMS OF STATE AND FEDERAL  
PRISONERS AND JAIL INMATES, 2011-12 (NCJ Rep. No. 248491, Feb. 2015),  
<https://bjs.ojp.gov/content/pub/pdf/mpsfpi1112.pdf>.

26 <sup>16</sup> Applegate, et al., *supra* note 2.

27 <sup>17</sup> *Id.*

28 <sup>18</sup> See NCCHC RESOURCES INC., *supra* note 6; CALIFORNIA STATE AUDITOR REPORT,  
*supra* note 9.



1 Association estimated that between one half and two thirds of the national jail  
2 population has a substance use problem.<sup>19</sup> This estimate is consistent with national  
3 data from 2007-2009, which found that about two-thirds of people in jail reported  
4 drug dependence or abuse.<sup>20</sup> More recent BJS data from 2019 examine opiate use  
5 disorder (OUD) and found that of those screened for the disorder, 14.5% were  
6 positive for OUD.<sup>21</sup> This compares with approximately 8% in the general  
7 population.<sup>22</sup> Although complete data on the prevalence of substance use issues  
8 among people incarcerated in San Diego County are unavailable, a 2022 report by  
9 SANDAG found that in their sample of people arrested and booked into three San  
10 Diego jail facilities, 3 of 4 people tested positive for at least one substance.<sup>23</sup> In  
11 addition, a recent peer-reviewed report by Analytica Consulting concluded that  
12 people incarcerated in San Diego County jails had the highest rate of  
13 overdose/accidental deaths compared with similar county jails.<sup>24</sup>

14 18. Death: Data show that the death rate in United States jails is higher than  
15 the national average,<sup>25</sup> with suicide being the leading cause of death between 2006  
16

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17 <sup>19</sup> National Sheriffs Association, Special Report: Jail-based medication-assisted  
18 treatment: Promising practices, guidelines, and resources for the field (2018),  
<https://www.sheriffs.org/publications/Jail-Based-MAT-PPG.pdf>.

19 <sup>20</sup> JENNIFER BRONSON, JESSICA STROOP, STEPHANIE ZIMMER & MARCUS BERZOFKY,  
20 U. S. DEP'T. OF JUST., BUREAU OF JUST. STATISTICS, DRUG USE, DEPENDENCE, AND  
21 ABUSE AMONG STATE PRISONERS AND JAIL INMATES, 2007–2009 (NCJ Rep. No.  
22 250546, June 2017), <https://www.bjs.gov/content/pub/pdf/dudaspi0709.pdf>.

23 <sup>21</sup> LAURA M. MARUSCHAK, TODD D. MINTON, & ZHEN ZENG, U.S. DEP'T OF JUSTICE,  
24 BUREAU OF JUST. STATISTICS, OPIOID USE DISORDER SCREENING AND TREATMENT IN  
25 LOCAL JAILS, 2019 (NCJ Rep. 305179, April 2023).  
<https://bjs.ojp.gov/library/publications/opioid-use-disorder-screening-and-treatment-local-jails-2019>.

26 <sup>22</sup> Emily Widra, *Addicted to Punishment: Jails and prisons punish drug use far more  
27 than they treat it*, PRISON POLICY INITIATIVE, (Jan. 30, 2024),  
<https://www.prisonpolicy.org/blog/2024/01/30/punishing-drug-use/>.

28 <sup>23</sup> SANDAG, *supra* note 4.

<sup>24</sup> ANALYTICA CONSULTING, SAN DIEGO COUNTY IN-CUSTODY DEATH STUDY (April  
2022) (SD817750).

<sup>25</sup> Ryan J. Reilly & Dana Liebelson, *We Wanted to Find Troubled Jails, So We  
Counted The Bodies*, HUFFPOST (Dec. 15, 2016),  
<https://www.huffpost.com/entry/jail-deaths->

1 and 2016.<sup>26</sup> During this same time period, 185 people died in San Diego County's  
2 jails, one of the highest totals in California.<sup>27</sup> Notably, this high number is not  
3 explained by mortality rates in the county at large, with Analytica Consulting  
4 concluding that San Diego has the highest number of unexplained deaths compared  
5 with other similar counties, and that it has a statistically significant number of  
6 excess deaths than what would be projected based on overall county mortality  
7 rates.<sup>28</sup> Although not all deaths are explained, the February 2022 report by the  
8 California State Auditor concluded that the Sheriff's Department did not take  
9 sufficient steps to prevent the high number of deaths in its jails.<sup>29</sup> Specifically, it  
10 highlighted deficiencies in the provision of medical and mental health care as well  
11 as safety and health checks.

12 19. In conclusion, people incarcerated in American jails, including San  
13 Diego jails, experience high levels of mental health, medical health, and substance  
14 use issues. Notably though, treatment and services for these issues, particularly in  
15 San Diego County, appear to be often inadequate, and death rates are concerningly  
16 high. Indeed, the serious mental health issues and high suicide rate in San Diego  
17 County's jails were explicitly discussed by San Diego County Supervisor Terra  
18 Lawson-Remer as reasons to support expanding alternatives to incarceration in the  
19 County.<sup>30</sup>

20  
21  
22 [statistics n\\_58518e13e4b0ee009eb4f1a9](#).

23 <sup>26</sup> E. ANN CARSON, & MARY P. COWHIG, U. S. DEP'T. OF JUST, BUREAU OF JUSTICE  
24 STATISTICS, MORTALITY IN LOCAL JAILS, 2000-2016 – STATISTICAL TABLES (NCJ  
25 Rep. No. 251921, Feb. 2020). <https://bjs.ojp.gov/content/pub/pdf/mlj0016st.pdf>.

26 <sup>27</sup> CALIFORNIA STATE AUDITOR REPORT, *supra* note 9.

27 <sup>28</sup> ANALYTICA CONSULTING, *supra* note 24.

28 <sup>29</sup> CALIFORNIA STATE AUDITOR REPORT, *supra* note 9.

<sup>30</sup> Terra Lawson-Remer, October 19, 2021 Agenda Item: A Data-Driven Approach  
to Protecting Public Safety, Improving and Expanding Rehabilitative Treatment and  
Services, and Advancing Equity Through Alternatives to Incarceration: Building on  
Lessons Learned during the COVID-19 Pandemic (DUNSMORE258288).

1           **C.     Opinion Two: Pretrial jail detention negatively impacts**  
2           **individuals’ case outcomes.**

3           20.     As noted above, all incarceration has negative impacts, but pretrial  
4     detention is particularly problematic because it has serious adverse impacts on a  
5     detained person’s criminal case outcomes. Decades of empirical research, in a  
6     variety of jurisdictions, shows that, compared with people who await trial in the  
7     community, detained individuals are less likely to receive charge reductions, more  
8     likely to plead guilty, more likely to be convicted, and more likely to receive a  
9     sentence of incarceration.<sup>31</sup> These studies typically rely on high-quality  
10    administrative data and use rigorous methods that control for other relevant facts  
11    that might impact these outcomes, such as offense type, charge severity, and  
12    criminal history. This research, combined with research showing that many more  
13    people can be released from jail while their cases proceed without negative impacts  
14    on public safety, supports reducing reliance on incarceration, including in San Diego  
15    County. *See* Opinion Four below.

16           21.     Charge Reductions, Guilty Pleas, and Convictions: Since 2017, four  
17    rigorous studies using data from Philadelphia, Harris County (Texas), Miami-Dade  
18    County (Florida), and New York City have been published that examine the impact  
19    of pretrial detention on charge reductions, guilty pleas, and convictions. These  
20    quasi-experimental studies rely on natural experiments in these jurisdictions, and  
21    control for a variety of demographic and offense characteristics; they confirm earlier  
22    findings that individuals detained pretrial are less likely to receive a charge  
23    reduction and more likely to plead guilty and be convicted.

24           22.     First, Stevenson conducted a study of 300,000 felonies and  
25    misdemeanor cases that began between 2006 and 2015 in Philadelphia. She found

26 \_\_\_\_\_  
27 <sup>31</sup> MARY T. PHILIPS, NEW YORK CITY CRIMINAL JUSTICE AGENCY, A DECADE OF  
28 BAIL RESEARCH IN NEW YORK CITY (2012); Stacie St. Louis, *The Pretrial Detention  
Penalty: A Systematic Review and Meta-Analysis of Pretrial Detention and Case  
Outcomes*. 41 JUSTICE QUARTERLY 347 (2023).

1 that being detained pretrial led to a 13% increase in the likelihood of conviction,  
2 mostly because detained defendants who otherwise might have been acquitted or  
3 had their case dismissed pleaded guilty.<sup>32</sup> Similarly, in 2017, Heaton and colleagues  
4 analyzed 380,000 misdemeanor cases that originated between 2008 and 2013 in  
5 Harris County, Texas (home to Houston). Controlling for offense seriousness,  
6 criminal history, differences in initial bail amount, and demographics, they found  
7 that defendants held in pretrial detention were 25% more likely to plead guilty than  
8 similarly situated defendants who were released pretrial.<sup>33</sup>

9       23. In a third study, Dobbie and colleagues examined more than 400,000  
10 cases filed between 2006 and 2014 in Philadelphia County, Pennsylvania, and  
11 Miami-Dade County, Florida and found that released defendants were 10.8% less  
12 likely to plead guilty than those who were detained, controlling for case-related and  
13 demographic differences.<sup>34</sup> Moreover, released defendants received better plea  
14 deals and compared with detained defendants, were more likely to be convicted of a  
15 less serious charge and were charged with fewer total offenses.

16       24. Finally, Leslie and Pope's 2017 study examined almost one million  
17 defendants in New York City between 2009 and 2013 and concluded that pretrial  
18 detention increased the likelihood of conviction by over 13 percentage points – this  
19 was largely a result of guilty pleas.<sup>35</sup> They also found that compared with released  
20 defendants, incarcerated defendants charged with a felony offense were 10  
21 percentage points less likely to have their charges reduced.

22 \_\_\_\_\_  
23 <sup>32</sup> Megan T. Stevenson, *Distortion of Justice: How the Inability to Pay Bail affects Case Outcomes*, 34 J. L., ECON. & ORG. 511 (2018).

24 <sup>33</sup> Paul Heaton, Sandra Mayson, and Megan T. Stevenson, *The Downstream Consequences of Misdemeanor Detention*, 69 STANFORD L. REV. 711 (2017).

25 <sup>34</sup> Will Dobbie, J. Goldin, and Crystal S. Yang. *The effects of pretrial detention on conviction, future crime, and employment: evidence from randomly assigned judges*. 108 AM. ECON. REV. 201 (2018).

26 <sup>35</sup> Emily Leslie & Nolan G. Pope, *The unintended impact of pretrial detention on case outcomes: Evidence from New York City arraignments*, 60 J. LAW & ECON. 529 (2017).

1           25.    These findings are not surprising. A variety of qualitative studies in the  
2 United States and Canada suggest that the deprivation of liberty and conditions of  
3 confinement in jails pressures defendants to plead guilty.<sup>36</sup> It also appears to  
4 encourage early guilty pleas. According to Peterson, detained individuals pleaded  
5 guilty 2.86 times faster than released defendants,<sup>37</sup> likely because pleading guilty to  
6 a time-served sentence is the quickest way to secure release for defendants who  
7 cannot afford to pay bail.<sup>38</sup> Given the consistency of these findings across  
8 jurisdictions, I have no reason to believe that the situation would be different in San  
9 Diego County.

10           26.    **Sentencing:** The negative impacts of pretrial detention have an even  
11 larger effect at sentencing.<sup>39</sup> Research conducted over the last twenty-five years  
12 shows that people who are detained pending trial are more likely to be sentenced to  
13 jail or prison than those who are not detained (or who are released before trial). For  
14 example, Lowenkamp and colleagues (2013) analyzed approximately 150,000 cases  
15 in Kentucky from 2009 and 2010 and, controlling for age, gender, race, ethnicity,  
16 marital status, risk level, supervision status, offense type, offense level, and time at  
17 risk, found that people detained pretrial were 4.44 times more likely to be sentenced  
18 to jail and 3.32 times more likely to be sentenced to prison than defendants who  
19 were released from pretrial custody prior to trial. A 2022 follow-up study in the  
20 same jurisdiction that expanded the data through 2018 confirmed these earlier  
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23 <sup>36</sup> CHRISTINE S. SCOTT-HAYWARD & HENRY F. FRADELLA, PUNISHING POVERTY:  
24 HOW BAIL AND PRETRIAL DETENTION FUEL INEQUALITIES IN THE CRIMINAL JUSTICE  
25 SYSTEM (2019).

25 <sup>37</sup> Nick Petersen, *Do Detainees Plead Guilty Faster? A Survival Analysis of Pretrial  
26 Detention and the Timing of Guilty Pleas*, 37 CRIM. J. POL. REV. (2019).

26 <sup>38</sup> Claire Chevrier, *Why Individuals who are held pretrial have worse case  
27 outcomes: How our reliance on cash bail degrades our criminal legal system*, in  
28 CHRISTINE S. SCOTT-HAYWARD, JENNIFER E. COPP, STEPHEN DEMUTH (ÉDS.),  
HANDBOOK ON PRETRIAL JUSTICE (2021).

28 <sup>39</sup> St. Louis, *supra* note 31.

1 findings.<sup>40</sup>

2 27. These findings are confirmed by studies in other jurisdictions. For  
3 example, in their study of defendants convicted of felonies in nine counties in  
4 Oregon between 2016 and 2017, Campbell and colleagues concluded that those who  
5 were detained through their case disposition were more than twice as likely to be  
6 sentenced to prison than those who were released, controlling for legal factors such  
7 as number of charges, prior criminal history, and the severity of the charge.<sup>41</sup>  
8 Similarly, Heaton and colleagues found that defendants detained pretrial in Harris  
9 County, Texas were 43% more likely to be sentenced to jail. For those who were  
10 sentenced to jail, their sentence was nine days longer – more than double the  
11 sentence length of those released pretrial.<sup>42</sup>

12 28. These differences are likely because defendants who are released  
13 pending trial can build a strong mitigation case at sentencing, demonstrating to a  
14 judge for example, that they have been able to maintain a job and stay out of  
15 trouble.<sup>43</sup> Not only can detained defendants not engage in activities that can  
16 demonstrate rehabilitation, but they also have more difficulty building and  
17 participating in their defense, partly due to “decreased access to defense attorneys  
18 [and] barriers to gathering and reviewing evidence.”<sup>44</sup>

19 29. Thus, throughout the case process, from charge reductions to guilty  
20 pleas, convictions, and sentencing, pretrial detention negatively affects individuals’  
21 case outcomes. And again, given the consistency of research findings across  
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23 <sup>40</sup> ARNOLD VENTURES, THE HIDDEN COSTS OF PRETRIAL DETENTION REVISITED  
(2022). <https://craftmediabucket.s3.amazonaws.com/uploads/HiddenCosts.pdf>.

24 <sup>41</sup> Christopher M. Campbell, Ryan M. Labrecque, Michael Weinerman, and Ken  
25 Sanchagrin, *Gauging detention dosage: Assessing the impact of pretrial detention  
on sentencing outcomes using propensity score modeling*, 70 J. CRIM. JUST. (2020).

26 <sup>42</sup> Heaton et al., *supra* note 33.

27 <sup>43</sup> Christine S. Scott-Hayward & Connie Ireland, *Reducing the federal prison  
population: The role of Pretrial Community Supervision*. 24 FED. SENT’G REP. 327  
(2022).

28 <sup>44</sup> Chevrier, *supra* note 38.

1 different jurisdictions, I have no reason to believe that the situation is any different  
2 in San Diego County.

3 **D. Opinion Three: Jail detention negatively impacts the financial**  
4 **wellbeing of detained individuals and their families.**

5 30. Incarceration also significantly hinders future employment prospects  
6 for individuals in large part due to the stigma of a criminal conviction. Numerous  
7 experimental studies have found that having a criminal record reduces the likelihood  
8 of a callback after applying for a job.<sup>45</sup> Notably, one recent study involving more  
9 than 2,600 fictitious job applications found that even minor felony convictions have  
10 negative effects on employment callbacks.<sup>46</sup> More recently, a study using the  
11 National Longitudinal Survey of youth examined the impact of incarceration on  
12 lifetime employment and earnings. Controlling for factors like race, gender, and  
13 education, Gordon and Neelakantan found that first-time incarceration for Black  
14 men with a high school diploma reduces expected lifetime earnings by 33 percent  
15 and employment by 22 percent. For high school-educated white men, it reduces  
16 expected lifetime earnings by 43 percent and employment by 27 percent.<sup>47</sup>

17 31. Similarly, of the people in San Diego County with a history of  
18 incarceration who responded to a community survey conducted by an Alternatives  
19 to Incarceration workgroup in San Diego County in 2022 (discussed in more detail  
20 later), three-quarters reported that incarceration had “somewhat” or “very much”  
21 impacted their employment or ability to get a job.<sup>48</sup> Some reported that they simply

22 \_\_\_\_\_  
23 <sup>45</sup> Devah Pager, *The Mark of a Criminal Record*, 108 AM. J. OF SOCIOLOGY 937  
24 (2003); Amanda Agan and Sonja Starr, *The Effect of Criminal Records on Access to*  
25 *Employment*, 107 AM. ECON. REV.: PAPERS & PROCEEDINGS (2017).

26 <sup>46</sup> Agan & Starr, *supra* note 45.

27 <sup>47</sup> GREY GORDON & URVI NEELANKANTAN, FEDERAL RESERVE BANK OF RICHMOND,  
28 INCARCERATION'S LIFE-LONG IMPACT ON EARNINGS AND EMPLOYMENT (Economic  
Brief, No. 21-07, March 2021),  
[https://www.richmondfed.org/publications/research/economic\\_brief/2021/eb\\_21-07](https://www.richmondfed.org/publications/research/economic_brief/2021/eb_21-07).

<sup>48</sup> SANDAG, A DATA-DRIVEN APPROACH TO PROTECTING PUBLIC SAFETY,  
IMPROVING AND EXPANDING REHABILITATIVE TREATMENT AND SERVICES, AND  
ADVANCING EQUITY THROUGH ALTERNATIVES TO INCARCERATION: FINAL REPORT  
[4522606.8]

1 could not get hired. Not surprisingly 37% reported that they had lost their job  
2 because they could not work.

3 32. Moreover, there is a growing body of research showing that *pretrial*  
4 detention particularly negatively impacts both the short- and long-term financial  
5 wellbeing of defendants. This is because pretrial detention, even for just a few days,  
6 can cause people to lose their jobs. For example, one study of defendants under  
7 pretrial supervision in Johnson County, Missouri found that people who spent three  
8 or more days in jail were nearly 2.5 times less likely to be employed than those who  
9 those who were not detained or spent less than three days in jail.<sup>49</sup> As discussed  
10 below, detained people are often among the poorest members of society, and  
11 therefore unlikely to be able to use savings to mitigate lost income and pay the fines  
12 and fees associated with the criminal legal process.<sup>50</sup>

13 33. Moreover, recent economic studies show that even a few days of  
14 pretrial detention has a negative impact on an individuals' future earnings. A recent  
15 study analyzing cases in Philadelphia and Miami-Dade counties concluded that  
16 defendants who were released at or within three days of their bail hearing were  
17 11.3% more likely to have employment two years after their bail hearing than those  
18 who spent at least three days in pretrial detention.<sup>51</sup> The authors controlled for a  
19 variety of demographic and case characteristics, including criminal history, number  
20 of charged offenses, type of crime, and crime severity. The study also found that  
21 three to four years after their bail hearing, the released defendants were 9.4% more

22 \_\_\_\_\_  
23 (March 15, 2023) (DUNSMORE 0115515).

24 <sup>49</sup> ALEXANDER M. HOLSINGER, COMMUNITY RESOURCES FOR JUSTICE, RESEARCH  
25 BRIEF: ANALYZING BOND SUPERVISION DATA: THE EFFECTS OF PRETRIAL  
26 DETENTION ON SELF-REPORTED OUTCOMES (2016),  
27 [http://www.crj.org/assets/2017/07/13\\_bond\\_supervision\\_report\\_R3.pdf](http://www.crj.org/assets/2017/07/13_bond_supervision_report_R3.pdf).

28 <sup>50</sup> PATRICK LIU, RYAN NUNN, AND JAY SHAMBAUGH, THE BROOKINGS INSTITUTE  
HAMILTON PROJECT, THE ECONOMICS OF BAIL AND PRETRIAL DETENTION (2018),  
[https://www.brookings.edu/wp-content/uploads/2018/12/BailFineReform\\_EA\\_121818\\_6PM.pdf](https://www.brookings.edu/wp-content/uploads/2018/12/BailFineReform_EA_121818_6PM.pdf).

<sup>51</sup> Dobbie, et al., *supra* note 34.



1 likely to be employed in the formal labor market and had higher average earnings.

2 34. These negative financial impacts of detention extend to families and  
3 communities. For example, a 2014 project surveying people with a history of  
4 incarceration and their family members in 14 states found that two-thirds of families  
5 had difficulty meeting basic needs, including housing, as a result of a family  
6 member's incarceration.<sup>52</sup>

7 35. Thus, the negative impacts of incarceration, particularly pretrial jail  
8 incarceration extend to economic impacts, with detained people suffering both  
9 short- and long-term negative employment and financial consequences.

10 **E. Opinion Four: The negative consequences of pretrial detention and**  
11 **jail incarceration generally, disproportionately impact people of**  
12 **color.**

13 36. Because Black and Hispanic<sup>53</sup> people are more likely to be arrested and  
14 incarcerated, they are more likely to experience all of the negative effects of  
15 incarceration described in my opinions above. In San Diego County, Black and  
16 Hispanic people are disproportionately arrested and detained in county jails. In  
17 2022, although Black people made up just 4% of the county population, they  
18 comprised 17% of all arrests; similarly, although Hispanic people made up 31% of  
19 the population, they accounted for 41% of arrests.<sup>54</sup> These disparities were visible  
20 across all arrest categories.

21 37. The disparities are even greater when it comes to incarceration rates,  
22 with Black and Hispanic people overrepresented in the county jail system. In the  
23 first quarter of 2024, Black people made up 21-22% of the jail population and

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24 <sup>52</sup> SANETA DE VUONO-POWELL, CHRIS SCHWIEDLER, ALICIA WALTERS & AZEDEH  
25 ZOHRABI, ELLA BAKER CENTER, FORWARD TOGETHER, RESEARCH ACTION DESIGN,  
26 WHO PAYS? THE TRUE COST OF INCARCERATION ON FAMILIES (2015),  
27 <https://static.prisonpolicy.org/scans/who-pays%20Ella%20Baker%20report.pdf>.

28 <sup>53</sup> Note: Studies and reports discussed in this report vary in how they describe some  
ethnic minorities. Throughout this report I use the terms Hispanic, Latino, and  
Latinx as they were used in the original study or report.

<sup>54</sup> SANDAG, ARRESTS 2022: LAW ENFORCEMENT RESPONSE TO CRIME IN THE SAN  
DIEGO REGION, (February 2024).

1 Hispanic people comprised 43-45%.<sup>55</sup>

2 38. The negative impacts of pretrial detention thus fall disproportionately  
3 on non-white people in San Diego. Given the prevalence of money bail, and that  
4 most criminal defendants are not able to pay even small bail amounts and thus are  
5 detained pending trial, the negative consequences of pretrial detention described  
6 above fall overwhelmingly on low-income people and people of color.

7 39. Recent studies using zip codes as proxies for income have shown that  
8 people from low-income neighborhoods are significantly more likely to be detained  
9 pending trial than those from higher-income neighborhoods.<sup>56</sup> These findings  
10 confirm an earlier study showing that most people who cannot pay bail fall within  
11 the poorest third of society.<sup>57</sup>

12 40. A study by the Prison Policy Initiative found that non-white defendants  
13 are less likely to be able to pay bail than white defendants.<sup>58</sup> Moreover, Black and  
14 Hispanic defendants are also significantly more likely to be detained pretrial than  
15 their white counterparts, and more likely to have a financial bail set.<sup>59</sup> A recent  
16 study using misdemeanor data from Miami-Dade County between 2012 and 2015  
17 found that Black defendants, particularly Black Latinx defendants, experienced  
18 longer detention and higher bond amounts than white, non- Latinx defendants.<sup>60</sup> For  
19 example, Black Latinx defendants spent 21 percent longer in pretrial detention and  
20 had 16 percent higher bond amounts, compared with white non- Latinx defendants.  
21 Similarly, in a 2023 article, Casey and colleagues found that Black and Latino

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23 <sup>55</sup> San Diego Sheriff's Department Jail Population Statistics, January to March 2024.

24 <sup>56</sup> Heaton et al., *supra* note 33; Stevenson, *supra* note 32.

25 <sup>57</sup> BERNADETTE RABUY & DANIEL KOPF, PRISON POLICY INITIATIVE, DETAINING THE  
26 POOR: HOW MONEY BAIL PERPETUATES AN ENDLESS CYCLE OF POVERTY AND JAIL  
27 TIME (MAY, 2016), <https://www.prisonpolicy.org/reports/incomejails.html>.

28 <sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> Nick Petersen & Marisa Omori, *Is the Process the Only Punishment?: Racial-  
Ethnic Disparities in Lower-Level Courts*, 42(1) LAW & POL'Y 56 (2020).

1 defendants were more likely to be required to pay money bail than white defendants  
2 (and less likely to be released on their own recognizance).<sup>61</sup> Further, Black and  
3 Latino people were more likely to be detained until their cases were resolved than  
4 white people.

5 41. Because paying bail is beyond the means of most criminal defendants,  
6 some turn to commercial bail bond agencies to obtain release. The payments that  
7 they make to these companies also have a disproportionately negative effect on  
8 people and communities of color. For example, a study of commercial bail in  
9 Maryland showed that over five years, Black defendants were charged \$181 million  
10 in premiums, while defendants of all other races combined were charged \$75  
11 million even though only approximately 30% of the Maryland population identified  
12 as Black.<sup>62</sup> Similarly, a 2017 study in New Orleans found that Black residents, who  
13 made up 59% of the population, paid 84% of the \$6.4 million bond premiums and  
14 associated government fees in 2015, and 69% of the \$3.8 million in conviction fines  
15 and fees.<sup>63</sup> This study also found significant racial disparities in arrest rates for  
16 failure to pay these fees: “Forty-three percent of Black New Orleanians whose  
17 sentences in municipal court included fines and fees were ordered arrested for  
18 failure to pay or for failing to appear in court for payment, compared to only 29  
19 percent of white New Orleanians who owed fines and fees.”

20 42. Overall, the racial disparities in arrest and incarceration rates across the  
21 United States and in San Diego County in particular, mean that all the negative  
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23 <sup>61</sup> William M. Casey, Jennifer E. Copp & Stephen Demuth, *Disparities in the*  
24 *Pretrial Process: Race, Ethnicity, and Citizenship*, JUSTICE QUARTERLY (2024).

25 <sup>62</sup> MARYLAND OFFICE OF THE PUBLIC DEFENDER, THE HIGH COST OF BAIL: HOW  
26 MARYLAND’S RELIANCE ON MONEY BAIL JAILS THE POOR AND COSTS THE  
COMMUNITY MILLIONS (2016),  
[https://opd.state.md.us/files/ugd/868471\\_23811682395a4fedacc40dda7fa71124.pdf](https://opd.state.md.us/files/ugd/868471_23811682395a4fedacc40dda7fa71124.pdf)

27 <sup>63</sup> MATHILDE LAISNE, JON WOOL, AND CHRISTIAN HENRICHSON, VERA INSTITUTE OF  
28 JUSTICE. PAST DUE: EXAMINING THE COSTS AND CONSEQUENCES OF CHARGING FOR  
JUSTICE IN NEW ORLEANS (2017), <https://www.vera.org/downloads/publications/past-due-costs-consequences-charging-for-justice-new-orleans.pdf>.

1 consequences of incarceration disproportionately affect Black and Latino/a people.  
2 This further highlights the importance of reducing reliance on incarceration in San  
3 Diego County.

4 43. Beyond the impacts of incarceration discussed above, there is further  
5 evidence that incarceration has disproportionate negative impacts on Black and  
6 Latino/a individuals. For example, a recent study analyzing the BJS data from  
7 2011-12 discussed earlier found that Black incarcerated individuals were about 3.4  
8 times more likely to be assaulted by correctional staff compared with white detained  
9 individuals, while Hispanic incarcerated individuals were 3.2 times more likely to  
10 be assaulted.<sup>64</sup>

11 **F. Opinion Five: San Diego County’s pretrial jail population could be**  
12 **reduced in several ways without negatively impacting public safety**  
**or reducing appearance rates.**

13 44. Given the negative impacts of incarceration, particularly pretrial  
14 incarceration, jurisdictions around the country have been working to reduce pretrial  
15 jail populations. In San Diego County, more people arrested could be released to  
16 the community rather than booked into the jail without negatively impacting public  
17 safety or reducing appearance rates. Eliminating money bail entirely is the best way  
18 to reduce pretrial jail populations,<sup>65</sup> but even with San Diego County’s continued  
19 reliance on money bail, the pretrial jail population could be reduced by a) decreasing  
20 reliance on the CAPA tool in making pretrial release recommendations, and  
21 b) releasing more people on their own recognizance and supporting their success  
22 through court date reminders. Moreover, given that Black and Hispanic defendants  
23 have disproportionately high arrest rates in San Diego County, and are  
24 overrepresented in the jail system (even relative to their arrest rates), the County and  
25

26 <sup>64</sup> Semenza, et al., *supra* note 10.

27 <sup>65</sup> Christine S. Scott-Hayward & Henry F. Fradella, *Abolishing Bail* in JON GOULD &  
28 PAMELA METZGER (EDS.), *TRANSFORMING CRIMINAL JUSTICE: AN EVIDENCE-BASED*  
*AGENDA FOR REFORM* (2022).

1 Sheriff's Department could reduce racial disparity among the pretrial population in  
2 San Diego County's jails by releasing more people to the community.

3 45. *Pretrial Risk Assessment*: Although judges are the ultimate  
4 decisionmakers in the area of pretrial release decisions, the Sheriff's Department  
5 plays a major role in helping judges by preparing a pretrial report that includes  
6 recommendations for release options and conditions.<sup>66</sup> Part of this report involves  
7 the completion of the California Pretrial Assessment, or "CAPA." This is a pretrial  
8 risk assessment tool that was modeled on the COMPAS tool and designed for and  
9 validated in San Diego County by Equivant, Inc. (formerly known as Northpointe  
10 Corporation). As currently implemented, the CAPA provides judges with one risk  
11 score that describes the risk of any failure on pretrial release, including both failures  
12 to appear and new criminal activity. New criminal activity is measured by a new  
13 arrest.

14 46. Based on its initial validation study, CAPA is not a particularly precise  
15 risk assessment tool. It was initially validated in 2020, using a standard measure of  
16 predictive ability, the Area Under the Curve (AUC).<sup>67</sup> This method assesses how  
17 well a tool separates (or discriminates between) people who experience an outcome  
18 of interest, for example, recidivism, and those who do not. A value of 1 corresponds  
19 to a tool's ability to perfectly discriminate and a value of 0.5 corresponds to an  
20 inability to discriminate, the equivalent of a coin toss.<sup>68</sup> In the case of CAPA, the  
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22 <sup>66</sup> SAN DIEGO COUNTY SHERIFF'S DEPARTMENT, SHERIFF'S PRETRIAL SERVICES,  
23 [https://www.sdsheriff.gov/bureaus/detention-services-bureau/reentry-  
services/sheriff-s-pretrial-services](https://www.sdsheriff.gov/bureaus/detention-services-bureau/reentry-services/sheriff-s-pretrial-services).

24 <sup>67</sup> NORTHPOINTE, INC., CALIFORNIA PRETRIAL ASSESSMENT (CAPA) VALIDATION  
25 STUDY: AN OUTCOMES STUDY CONDUCTED FOR THE SAN DIEGO COUNTY SHERIFF'S  
26 DEPARTMENT (2020), [https://www.sdsheriff.gov/home/showpublisheddocument/4663/6377818525996700  
00](https://www.sdsheriff.gov/home/showpublisheddocument/4663/637781852599670000).

27 <sup>68</sup> Jennifer Copp & William Casey, *Pretrial Risk Assessment Instruments in the*  
28 *United States: A Critical Lens on Issues of Development, Performance, and*  
*Implementation*, in CHRISTINE S. SCOTT-HAYWARD, JENNIFER E. COPP, STEPHEN  
DEMUTH (EDS.), HANDBOOK ON PRETRIAL JUSTICE (2021).

1 AUC value represents the probability that a randomly selected person who fails to  
2 appear or is re-arrested will have a higher risk score than a randomly selected person  
3 who does not. In the criminal justice field, an AUC over 0.7 is considered to be  
4 “excellent” and values between .64 and .69 are considered to be “good.”<sup>69</sup> The  
5 CAPA validation study produced values of 0.699 for new criminal arrests, 0.643 for  
6 failures to appear, and a combined AUC for both types of failure of 0.685. What  
7 this means is that CAPA is correctly able to discriminate between those who fail on  
8 pretrial release and those who do not about 69% of the time. Documents I have  
9 reviewed indicate that the Sheriff’s Department’s CAPA tool was due to be  
10 validated again in 2023,<sup>70</sup> but I was unable to find any evidence that the validation  
11 occurred.

12 47. Although the CAPA is a validated tool with “good” values, that does  
13 not mean that it does a particularly good job at predicting the success or failure of an  
14 individual who is on pretrial release. First, the AUC values for CAPA’s outcomes  
15 of interest are below 0.7, which means that “a randomly selected defendant who  
16 ‘failed’ will have a higher risk score than a randomly selected defendant who did not  
17 ‘fail’ slightly more than two-thirds of the time.”<sup>71</sup> Second, the assessment of values  
18 as good or not is arbitrary and subjective. For example, as noted earlier, informal  
19 standards in the criminal justice field deem 0.7 or higher to be excellent; however, in  
20 the medical field, 0.9 is the threshold for excellence.<sup>72</sup>

21 48. Third, even though the CAPA and other risk assessment tools purport  
22 to be race-neutral, in that the AUC values do not vary significantly for different  
23 racial or ethnic groups, there is built-in racial bias in the measures that are used as  
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25 <sup>69</sup> *Id.*

26 <sup>70</sup> Email from Christine White to Abigail Torres and Amy Bitner, August 9, 2023  
27 (SD820137).

28 <sup>71</sup> Copp & Casey, *supra* note 68.

<sup>72</sup> *Id.*

1 part of the tool. For example, prior convictions and jail sentences are used to predict  
2 an individual’s risk of failure, but because communities of color are overpoliced,  
3 and because of existing bias in the criminal legal system, non-white people tend to  
4 have more prior arrests and convictions. As noted earlier, in San Diego County and  
5 across the United States, the arrest and incarceration rates for Black and Hispanic  
6 people are higher than those for people of other racial and ethnic backgrounds—  
7 even when controlling for other factors.

8         49. Finally, it is important to note that risk assessment instruments do not  
9 purport to predict the future behavior of any particular defendant. Instead, they  
10 identify defendants who share characteristics with other “low-” or “high-risk”  
11 defendants, and have a tendency to overpredict risk of failure.<sup>73</sup> Because of this,  
12 making pretrial release recommendations by relying on risk scores will tend to  
13 exclude many individuals, particularly Black and Hispanic individuals, who could  
14 be released on their own recognizance without negatively impacting public safety or  
15 appearance rates. Moreover, using CAPA scores to determine eligibility for home  
16 detention (a program in San Diego County discussed in Opinion Six below) for  
17 those who are not released on their own recognizance and who cannot make bail  
18 may also unnecessarily limit participation in that program.

19         50. Money Bail: Like many jurisdictions, San Diego relies heavily on  
20 secured money bail in making release decisions. However, secured money bail is an  
21 ineffective way to a) ensure a person’s appearance in court, or b) protect public  
22 safety. Although this litigation does not challenge San Diego’s money bail system, I  
23 believe it is important to note that (1) relying on money bail unnecessarily increases  
24 pretrial incarceration rates, and (2) relying more on alternatives can reduce  
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27 <sup>73</sup> Colin Doyle, *All Models Are Wrong, But Are Risk Assessments Useful?* in  
28 CHRISTINE S. SCOTT-HAYWARD, JENNIFER E. COPP, STEPHEN DEMUTH (EDS.),  
HANDBOOK ON PRETRIAL JUSTICE (2021).

1 incarceration without negatively impacting public safety.<sup>74</sup>

2 51. There is no evidence that money bail increases appearance rates. For  
3 example, two studies in Colorado compared appearance rates for defendants  
4 released on secured money bond with those released on unsecured bonds (personal  
5 recognizance bonds with a monetary amount set) and found no statistical differences  
6 in appearance rates for the two groups.<sup>75</sup> More recently, a 2022 study found no  
7 increase in failures to appear as a result of the reduction in the use of money bail in  
8 Philadelphia, Pennsylvania.<sup>76</sup>

9 52. Similarly in Orange County, California, an evaluation of a supervised  
10 release program showed that individuals who received supervised release without  
11 financial conditions were less likely to fail to appear than those released on cash bail  
12 (Barno, et al., 2020).

13 53. In addition, there is strong evidence that low-cost court notification  
14 programs increase already high appearance rates. A recent systematic review and  
15 meta-analysis of twelve studies concluded that court reminders significantly reduce  
16 the odds of failure to appear in court.<sup>77</sup> Notably, this effect exists regardless of the  
17 type of court reminder (*e.g.*, postcard, phone call, or text reminder). The San Diego  
18 County Probation Department, which supervises people who are on supervised own  
19 recognizance, currently provides court hearing reminders to those individuals,

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21 <sup>74</sup> See Scott-Hayward & Fradella, *Abolishing Bail*, *supra* note 65.

22 <sup>75</sup> CLAIRE M.B. BROOKER, MICHAEL R. JONES, & TIMOTHY R. SCHNACKE, PRETRIAL  
23 JUSTICE INSTITUTE, THE JEFFERSON COUNTY BAIL PROJECT: IMPACT STUDY FOUND  
24 BETTER COST EFFECTIVENESS FOR UNSECURED RECOGNIZNCE BONDS OVER CASH  
25 AND SURETY BONDS (June, 2014),  
[http://www.clebp.org/images/Jefferson\\_County\\_Bail\\_Project- Impact\\_Study -  
PJI\\_2014.pdf](http://www.clebp.org/images/Jefferson_County_Bail_Project- Impact_Study - PJI_2014.pdf); MICHAEL R. JONES, PRETRIAL JUSTICE INSTITUTE, UNSECURED  
26 BONDS: THE AS EFFECTIVE AND MOST EFFICIENT PRETRIAL RELEASE OPTION. (2013)

26 <sup>76</sup> Aurelie Ouss & Megan Stevenson, *Does Cash Bail Deter Misconduct?* 15  
AMERICAN ECON. J.: APPLIED ECONOMICS 150 (2023).

27 <sup>77</sup> Samantha A. Zottola, William E. Crozier, Deniz Ariturk & Sarah L. Desmarais,  
28 *Court Date Reminders Reduce Court Nonappearance: A Meta-Analysis*, 22  
CRIMINOLOGY & PUB. POL'Y 97 (2023).



1 although no reminders are currently available for people on own recognizance.<sup>78</sup>

2       54.    **Public Safety:** Notably, there is also no evidence that money bail  
3 protects public safety. I have been unable to find any evidence that money bail,  
4 compared with other types of release decisions, keeps the public safer. By contrast,  
5 in his 2013 study of 10 Colorado counties, Jones found no difference in the number  
6 of crimes committed during the pretrial release period between defendants released  
7 on secured bonds and those released on unsecured bonds.<sup>79</sup> Similarly, in a study of  
8 defendants in New Orleans arrested in 2019, Monaghan and colleagues found that  
9 controlling for demographic factors and offense information, being released without  
10 money bail did not increase the likelihood of being arrested while awaiting trial.<sup>80</sup>

11       55.    Moreover, jurisdictions that have restricted the use of money bail have  
12 not seen increases in pretrial crime. For example, Ouss and Stevenson found no  
13 increase in pretrial crime in Philadelphia, Pennsylvania after comparing cash bail  
14 with pretrial supervision.<sup>81</sup>

15       56.    More generally, there is no evidence that lowering jail populations  
16 through pretrial justice reforms negatively impacts public safety. A recent report by  
17 the Institute for State and Local Governance at the City University of New York  
18 concluded that across 14 cities and counties (including Los Angeles and San  
19 Francisco counties), jail reforms that have lowered jail populations since 2020 did  
20 not lead to increased violent crime or an increase in returns to jail custody.<sup>82</sup>  
21 Similarly, after Los Angeles County implemented its new pre-arraignment bail

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23 <sup>78</sup> *Dunsmore, et al. v. San Diego County Sheriff's Department, et al.*, Transcript of  
Deposition of Abigail Torres, May 7, 2024, 55:12-24.

24 <sup>79</sup> Jones, *supra* note 74.

25 <sup>80</sup> Jake Monaghan, Eric Joseph van Holm & Chris W. Surprenant, *Get Jailed, Jump  
Bail? The Impacts of Cash Bail on Failure to Appear and re-Arrest in Orleans  
Parish*, 47 AM. J. CRIM. JUST. 56 (2022).

26 <sup>81</sup> Ouss & Stevenson, *supra* note 75.

27 <sup>82</sup> CUNY INSTITUTE FOR STATE & LOCAL GOVERNANCE, LOWERING JAIL  
28 POPULATIONS SAFELY BEFORE, DURING, AND AFTER COVID-19: UPDATED FINDINGS  
ON JAIL REFORM, VIOLENT CRIME AND THE COVID-19 PANDEMIC (2024).

1 schedule in 2023, which reduced reliance on money bail, it did not see any  
2 significant increase in reoffending while on release or a reduction in appearance  
3 rates.<sup>83</sup> These experiences support a 2012 study that suggested that judges could  
4 release 25% more defendants while actually decreasing pretrial crime rates.<sup>84</sup>

5 **G. Opinion Six: The jail population in San Diego County could be**  
6 **reduced by expanding the use of alternative to incarceration**  
7 **programs.**

7 57. According to the Sheriff’s Department’s 2023 Annual Report, over  
8 50,000 individuals were booked into custody in 2023.<sup>85</sup> Yet, as discussed below, no  
9 more than 200 people participated in Sheriff’s Department alternatives to  
10 incarceration programs at any one time, and there are several programs that have no  
11 participants. Moreover, the Rule 30(b)(6) witness for the Sheriff’s Department  
12 testified in his deposition that the Sheriff’s Department has concluded that  
13 alternative to incarceration programming should be provided *in the jail* as opposed  
14 to in the community.<sup>86</sup> However, that defeats the purpose of alternatives to  
15 incarceration, which are designed to divert people from jail so that they do not suffer  
16 the litany of adverse effects of incarceration described above.

17 58. According to the Sheriff’s Department, the County Parole and  
18 Alternative Custody Unit (CPAC) offers alternative custody programs that are  
19 “designed to socially reintegrate offenders through evidence-based practices and  
20 proactive supervision measures.”<sup>87</sup> The department’s Policy Manual lists ten

21 \_\_\_\_\_  
22 <sup>83</sup> Josh Cain, *No crime wave caused by new ‘zero-bail,’ LA court official says, but*  
23 *advocates say rules not evenly applied*, L.A. DAILY NEWS, Apr. 1, 2024 (citing  
24 data), <https://www.dailynews.com/2024/03/21/no-crime-wave-caused-by-new-zero-bail-la-court-official-says-but-advocates-say-rules-not-evenly-applied/>.

24 <sup>84</sup> Shima Baradaran & Frank L. McIntyre, *Predicting Violence*, 90 TEXAS L. REV.  
25 497 (2012).

25 <sup>85</sup> San Diego County Sheriff’s Department 2023 Annual Report, at 5,  
26 <https://www.sdsheriff.gov/home/showpublisheddocument/8200/638515391306970000>.

26 <sup>86</sup> April 23, 2024 Deposition of Christopher Buchanan, 34:8-36:23 (stating that “the  
27 services that often are needed in the community are more beneficial in the jail”).

28 <sup>87</sup> San Diego County Sheriff’s Department Detention Services Bureau Manual of  
Policies and Procedures, E1, March 11, 2022 (SD1471458).

1 programs that comprise CPAC,<sup>88</sup> but the department appears to track participation in  
2 just five of these programs – Fire Camp, Work Furlough, Residential Reentry  
3 Center, Home Detention, and County Parole. I have not seen any documents  
4 showing participation rates in the remaining five programs.

5 59. The number of individuals participating in the tracked programs is  
6 exceptionally small for the jail population. In 2023, more than 50,000 people were  
7 booked into custody.<sup>89</sup> Yet only approximately 200 people participated in CPAC  
8 programs at any given time. For example, at three different timepoints, October 29,  
9 2022,<sup>90</sup> November 17, 2022,<sup>91</sup> and September 29, 2023,<sup>92</sup> there were individuals  
10 housed in just two of the five tracked programs. During the first two timepoints,  
11 only one individual was identified as participating in Fire Camp. Across the three  
12 timepoints, between 187 and 200 individuals were identified as participating in  
13 home detention, well below the stated capacity of 300. It is not clear why home  
14 detention has a capacity of only 300. There were no individuals under the Sheriff’s  
15 Department’s authority participating in the County Parole program, Residential  
16 Reentry Center, or Work Furlough program at any of the three timepoints.  
17 According to deposition testimony, since the COVID-19 pandemic, the Sheriff’s  
18 Department no longer refers people to the Residential Reentry Center or Work  
19 Furlough, which is administered by the Probation Department, and instead of  
20 expanding existing programs in the community, is focused on expanding

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22 \_\_\_\_\_  
23 <sup>88</sup> *Id.*

24 <sup>89</sup> San Diego County Sheriff’s Department 2023 Annual Report, *supra* note 85.

25 <sup>90</sup> Email from SQLAPPVM01\_Reports@SDSheriff.org, Subject: Automated  
26 Realignment Status Report – 10/29/22 (SD550498) with Attachment: 10/29/22  
27 System Population Totals (SD550500).

28 <sup>91</sup> Email from SQLAPPVM01\_Reports@SDSheriff.org, Subject: Automated  
Realignment Status Report - 11/17/2022 (SD550530) with Attachment: 11/17/22  
System Population Totals (SD550532).

<sup>92</sup> Email from SQLAPPVM01\_Reports@SDSheriff.org, Subject: Automated  
Realignment Status Report – 9/29/2023 (SD554581).

1 programming in the jail.<sup>93</sup>

2         60. Of the CPAC programs, the Sheriff’s Department exercises the most  
3 control over home detention admissions and it is responsible for developing and  
4 implementing eligibility criteria, subject to some state law restrictions.<sup>94</sup> For  
5 example, state law prohibits people who have been screened by a validated risk  
6 assessment tool as at a high risk to commit a violent offense, who have a history of  
7 escape within the previous 10 years, and who have been convicted of an offense that  
8 requires them to register as a sex offender.<sup>95</sup> Beyond that though, the Sheriff’s  
9 Department has implemented further limiting criteria and deems ineligible a series  
10 of categories of incarcerated people, including people who have a “split sentence,”  
11 those who were sentenced by an out-of-county court, and those who have been  
12 convicted of a long list of serious offenses.<sup>96</sup> There is no explanation for why these  
13 additional groups have been deemed ineligible. Overall, eligibility for participation  
14 in Home Detention is based on the Sheriff’s Department’s “criminal history review,  
15 institutional behavior review, drug/alcohol history, residence check, as well as a  
16 validated assessment of risks and needs.”<sup>97</sup> In addition, CPAC participation is  
17 limited to those who agree to supervision requirements, wear a GPS monitoring  
18 device, and pay any fees.<sup>98</sup>

19         61. The Sheriff’s Department plays a partial role in County Parole  
20 admissions as a representative from the Department is one of three members of the  
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22 <sup>93</sup> *Dunsmore, et al. v. San Diego County Sheriff’s Department, et al.*, Transcript of  
Deposition of Christopher Buchanan, April 23, 2024, 15:22-17:3; 34:8-36:23.

23 <sup>94</sup> San Diego County Sheriff’s Department, County Parole and Alternative Custody  
24 (SD1471452); San Diego County Sheriff’s Department Detention Services Bureau –  
Manual of Policies and Procedures, April 29, 2022 – E.3 (Home Detention and  
25 RRC/WF Criteria) (SD1471468).

26 <sup>95</sup> P.C. 1170.06(d)

27 <sup>96</sup> San Diego County Sheriff’s Department Home Detention and RRC/WF Criteria,  
*supra* note 90.

28 <sup>97</sup> County Parole and Alternative Custody, *supra* note 90, at 2.

<sup>98</sup> *Id.*

1 County Parole Board, along with a representative from the Probation Department  
2 and a public member appointed by the Presiding Superior Court Judge.<sup>99</sup> In  
3 addition, facility correctional counselors in the jails are responsible for reviewing  
4 and forwarding completed applications for county parole to the county parole  
5 officer.<sup>100</sup> According to the documents I have seen, there are currently no  
6 participants in County Parole, although it is unclear how many applications have  
7 been submitted and denied, and what the reasons for denial are.

8         62. The Probation Department also plays a major role in alternatives to jail  
9 incarceration, primarily through the Residential Reentry Center/Work Furlough  
10 program. Although participation is part of an individual's sentence, the Probation  
11 Department plays a key role in the court's decision by screening potential  
12 participants for eligibility and through its presentence investigation report in which  
13 it might recommend participation.<sup>101</sup> People convicted of certain offenses are  
14 ineligible for the program but otherwise, admission appears to be holistic and is  
15 based on a screening form and the presentence investigation report, which includes a  
16 criminal history review.<sup>102</sup> Once accepted into the program, participants are initially  
17 part of the Residential Reentry Center; when they obtain employment, they become  
18 part of the Work Furlough program. In both cases, they reside at a facility in San  
19 Diego.<sup>103</sup>

20         63. As with home detention, the number of individuals participating in the  
21 Residential Reentry Center and Work Furlough is lower than the program's stated  
22 capacity. On the same three dates listed above, the number of people on Work  
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24 <sup>99</sup> San Diego County Sheriff's Department Detention Services Bureau – Manual of  
25 Policies and Procedures, April 29, 2022 – E.8 (County Parole) (SD1471486).

26 <sup>100</sup> *Id.*

27 <sup>101</sup> *Dunsmore, et al. v. San Diego County Sheriff's Department, et al.*, Transcript of  
28 Deposition of Abigail Torres, May 7, 2024, 84.

<sup>102</sup> *Id.* at 87:14-15; 89:14-93:09.

<sup>103</sup> *Id.* at 80:22-81:7.

1 Furlough ranged from 59 to 82 and the number of people in the Residential Reentry  
2 Center ranged from 19 to 25.<sup>104</sup> According to the Work Furlough and Residential  
3 Re-Entry Center Oversight Unit, the programs currently have 129 total beds (102 for  
4 men and 27 for women),<sup>105</sup> although the contract calls for up to 225 beds.<sup>106</sup> When  
5 asked about why the programs were below capacity, a Probation Department official  
6 testified that currently, “[w]e don’t have enough [people] being screened for the  
7 programs and enough being ordered into the programs.”<sup>107</sup>

8 64. It is unclear why the number of people participating in CPAC and other  
9 alternatives programs is so low, although there are several eligibility criteria that  
10 limit participation by people who could benefit from both Home Detention and  
11 Residential Reentry Center and Work Furlough services.

12 65. First, both COMPAS and CAPA risk scores appear to be considered in  
13 admission decisions for CPAC programs. As explained in more detail above, CAPA  
14 is a pretrial-risk assessment tool that has been validated in San Diego County, but is  
15 not particularly precise and likely overpredicts risk, particularly for non-white  
16 defendants. COMPAS is a widely used tool that has been validated on several  
17 populations across the United States. In San Diego, it appears that COMPAS is  
18 used to predict reoffending among people in custody or on probation and in previous  
19 validation studies on a variety of populations outside San Diego, its AUC values  
20 varied widely and ranged from 0.67 to 0.74.<sup>108</sup> However, I was unable to find any  
21 studies validating COMPAS in San Diego, and so its predictive ability in San Diego  
22 County is unclear. Moreover, using data from the implementation of COMPAS in

23 \_\_\_\_\_  
24 <sup>104</sup> See *supra* notes 86-89.

25 <sup>105</sup> Work Furlough (WF) and Residential Re-Entry Center (RRC) Oversight Unit  
(SD1471558).

26 <sup>106</sup> Torres Deposition, *supra* note 97, at 96:23-97:4.

27 <sup>107</sup> *Id.* at 98:12-20.

28 <sup>108</sup> Equivant, Practitioner’s Guide to COMPAS Core, April 14, 2019,  
[https://web.archive.org/web/20240422003116/https://www.equivant.com/wp-  
content/uploads/Practitioners-Guide-to-COMPAS-Core-040419.pdf](https://web.archive.org/web/20240422003116/https://www.equivant.com/wp-content/uploads/Practitioners-Guide-to-COMPAS-Core-040419.pdf)

1 Broward County, Florida, in 2016, a team of investigators criticized the tool for both  
2 its unreliability in predicting crime, particularly violent crime, and its overprediction  
3 of risk for Black defendants.<sup>109</sup> Because neither the Sheriff’s Department nor the  
4 Probation Department appear to collect data on the reasons why people are rejected  
5 or deemed ineligible for program participation, we do not know how many people  
6 are rejected based on a risk score. However, a review of the role played by risk  
7 assessment in admissions decision might lead to increased participation in CPAC  
8 programs, particularly given how risk assessment tools overpredict risk, especially  
9 for people of color.

10 66. In addition, CPAC programs consider the charged/sentenced offence as  
11 part of their eligibility criteria.<sup>110</sup> However, there are two issues with this. First,  
12 although the Sheriff’s Department does not explain why this is considered, it is  
13 likely due to a perception that people charged with or convicted of a serious offense  
14 pose a greater risk. But just because someone is charged with or convicted of a  
15 serious offense does not mean that they are likely to commit that same serious  
16 offense again, or even to re-offend at all. The likelihood of reoffending depends on  
17 a variety of factors, and it is not necessarily the case that people charged with  
18 serious offenses are more likely to fail than those charged with less serious offenses.  
19 For example, in the pretrial context, there is no evidence that the seriousness of  
20 criminal charges has any relationship to failure to appear or new criminal activity by  
21 people on pretrial release.<sup>111</sup> Thus barring people charged with (or convicted of) a  
22 serious offense likely excludes people who might otherwise benefit from

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24 <sup>109</sup> Julia Angwin, Jeff Larson, Surya Mattu and Lauren Kirchner, ProPublica, May  
25 23, 2016, *Maching Bias: There’s software used across the country to predict future*  
26 *criminals. And it’s biased against blacks*,  
<https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing>.

27 <sup>110</sup> San Diego County Sheriff’s Department Detention Services Bureau Manual of  
Policies and Procedures, E3, April 29, 2022

28 <sup>111</sup> Curtis Karnow, *Setting Bail for Public Safety*, 13 BERKELEY J. CRIM. L. 1 (2008).

1 programming. In addition, research shows that Black people tend to get charged  
2 with and convicted of more serious offenses than white people and so using offenses  
3 to exclude people from program participation likely has a racially disparate  
4 impact.<sup>112</sup>

5 67. Notably, despite the low participation numbers in CPAC programs, it  
6 does not appear that either the Sheriff's Department or the Probation Department are  
7 considering changing the eligibility criteria.<sup>113</sup> In addition, because neither  
8 department appears to track applications, referrals, or reasons for denials, it is  
9 impossible to determine whether these programs could or should serve more people.  
10 Moreover, data on the race or ethnicity of either applications or program participants  
11 are not collected,<sup>114</sup> and so I am unable to ascertain whether eligibility criteria are  
12 playing a role in the disparate incarceration rates for Black and Hispanic people in  
13 San Diego County. In order for the Sheriff's Department and County to assess  
14 whether the way that they administer alternatives to incarceration programs is  
15 contributing to the disparate incarceration of Black and Hispanic people in county  
16 jails, it is vital for them to collect data on applications, referrals, acceptance rates,  
17 and reasons for denial.

18 68. Finally, although reentry programming is not an alternative to  
19 incarceration, reentry programming can assist incarcerated people as they prepare  
20 for a release and is a vital part of any jail system. Although the Sheriff's  
21 Department's Reentry Services Division purports to offer a long list of classes and  
22 programs, many of these classes and programs are not consistently offered and

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24 <sup>112</sup> ELIZABETH HINTON, LESHAE HENDERSON, & CINDY REED, VERA INSTITUTE OF  
25 JUSTICE, AN UNJUST BURDEN: THE DISPARATE TREATMENT OF BLACK AMERICANS IN  
26 THE CRIMINAL JUSTICE SYSTEM (2018) (reviewing research),  
<https://www.vera.org/downloads/publications/for-the-record-unjust-burden-racial-disparities.pdf>.

27 <sup>113</sup> Buchanan Deposition, *supra* note 83, at 39:6-21; Torres Deposition, *supra* note  
91, at 100:19-22.

28 <sup>114</sup> Buchanan Deposition, *supra* note 83, at 7:18-21; Torres Deposition, *supra* note  
91, at 83:19-21; 123:14-19.



1 available to people in the jail’s facilities. During her Rule 30(b)(6) deposition  
2 testimony, the Sheriff’s Department’s reentry coordinator was unsure if many of the  
3 programs were currently operating.<sup>115</sup> For example, Ms. Ceballos was asked about  
4 16 different psychosocial programs, but knew only that five were active, and also  
5 testified that educational and vocational programs were not available at all  
6 facilities.<sup>116</sup> In addition, I have reviewed deposition testimony from class  
7 representative Reanna Levy indicating that she was unable to participate in any  
8 programs while incarcerated in a maximum-security unit at Las Colinas Detention  
9 and Reentry Facility.<sup>117</sup>

10 **H. The Current State of Alternatives to Incarceration and Reentry**  
11 **Programming in San Diego County**

12 69. In 2021, San Diego County began a process to study alternatives to  
13 incarceration in the County, with the County selecting the San Diego Association of  
14 Governments (“SANDAG”), to serve as the independent consultant on this effort.  
15 SANDAG issued its final report in March 2023.<sup>118</sup> The report is based on data  
16 analysis, interviews, surveys, and a review of current practices in San Diego County.  
17 The report concludes with a series of 52 recommendations on ways to safely reduce  
18 jail populations in the county, and better serve at-risk populations. Many of these  
19 recommendations relate to expanding access to alternatives to incarceration at both  
20 the pretrial and sentencing phases. For example, SANDAG specifically  
21 recommended expanding eligibility criteria for CPAC programs and the Work  
22 Furlough and Residential Reentry Center.<sup>119</sup>

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24 <sup>115</sup> *Dunsmore, et al. v. San Diego County Sheriff’s Department, et al.*, Transcript of  
25 Deposition of Patricia Ceballos, April 23, 2024, 40:4-54:20.

26 <sup>116</sup> *Id.*, 46:17-54:20.

27 <sup>117</sup> *Dunsmore, et al. v. San Diego County Sheriff’s Department, et al.*, Transcript of  
28 Deposition of Reanna Levy, March 21, 2024, 221:7-223-04.

<sup>118</sup> SANDAG, *supra* note 41.

<sup>119</sup> *Id.* at 180-81.

1           70. In response, the County conducted its own review of local practices,  
2 programs, and best practices, considered the report’s recommendations, and in  
3 May 2023, created a work plan that among other goals, aimed to prioritize  
4 alternatives to incarceration.<sup>120</sup> Notably absent from the work plan was a plan to  
5 review and potentially amend the eligibility criteria for the existing programs  
6 discussed above. Moreover, as yet, most of the goals planned for the 2023-24 fiscal  
7 year have not been implemented.<sup>121</sup>

8 **V. CONCLUSION**

9           71. As explained in Opinions 1 through 4 above, empirical data show that  
10 incarceration harms individuals in a variety of ways beyond the deprivation of  
11 liberty. People incarcerated in jails tend to have higher rates of mental and physical  
12 health issues, but treatment is lacking and death rates, particularly in San Diego  
13 County jails, are far higher than in the community – and than most other California  
14 jails. In addition, jail incarceration harms individuals’ financial wellbeing as well as  
15 that of their families, and significantly impacts defendants’ case outcomes.  
16 Worryingly, these harmful effects have an outsized effect on Black and Hispanic  
17 individuals. Despite the large numbers of people incarcerated in San Diego County  
18 jails, there are very few people currently participating in alternative to incarceration  
19 programs. Given the disproportionately high incarceration rates of Black and  
20 Hispanic people in San Diego’s jails, it is my opinion that the lack of alternative to  
21 incarceration programs likely perpetuates the adverse effects of jail incarceration on  
22 these groups.

23           72. The information and opinions contained in this report are based on  
24 evidence, documentation, and/or observations available to me. I reserve the right to  
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26 <sup>120</sup> Alternatives to Incarceration Work Plan (May 23 Slide – Att D).

27 <sup>121</sup> Alternatives to Incarceration Work Plan Progress, March 12, 2024,  
28 <https://www.sandiegocounty.gov/content/sdc/alternatives-to-incarceration/ATI-project-history.html>.

1 modify or expand these opinions should additional information become available to  
2 me. The information contained in this report and the accompanying exhibits are a  
3 fair and accurate representation of the subject of my anticipated testimony in this  
4 case.

5  
6 Dated: August 15, 2024

  
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Christine Scott-Hayward, Ph.D.

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